




City of Loma Linda Official Report

Floyd Petersen, Mayor
Stan Brauer, Mayor pro tempore
Robert Christman, Councilmember
Robert Ziprick, Councilmember
Charles Umeda, Councilmember

COUNCIL AGENDA: May 24, 2005

TO: City Council

VIA: Dennis R. Hallaway, City Manager 

FROM: Richard E. Holdaway, City Attorney

SUBJECT: Council Bill #O-2005-07 – (First Reading/Set Second Reading and public hearing for June 14) – Amending the Loma Linda Municipal Code to add Chapter 8.24 to Title 8 to adopt by reference San Bernardino County Ordinance No. 3930 relating to inspection grading of food establishments

RECOMMENDATION

It is recommended that the City Council introduce Council Bill #O-2005-07 on First Reading and set the public hearing and Second Reading for June 14.

BACKGROUND

In June 2004, the County of San Bernardino adopted a Restaurant and Market Grading System Program for the unincorporated areas that was implemented in the Fall of 2004. The County encouraged cities to adopt the Program to be administered by the County Department of Public Health.

The letter grades, ranging from “A” to “C,” are published on a placard that is clearly visible to the patrons of the establishment. The letter grade shows a measure of compliance with health regulations on the date of the inspection and is based on the final numerical point score set forth in the official inspection report. A grade of “A” indicates a score of 90 points or higher out of 100 possible points. A grade of “B” indicates a score of 80 to 89 points. A “C” grade indicates a score of 70 to 79 points.

The purpose of the grading system is to protect public health through the existing system of inspections, along with public notification of the inspection results. With this system of posted grades, restaurants are better motivated to comply with health regulations, and consumers are given information about the establishments they visit. Public interest in the grading system has been demonstrated by approximately 1.5 million “hits” on the County website since the program went into operation.

Under this system, any establishment that receives a score of 80 to 89 points (a "B" letter grade) shall receive written notice of the deficiencies. The establishment would then have the right to correct the deficiencies and file a written request for a re-score inspection provided by the County. An establishment that scores 70 to 79 points (a "C" grade) on an inspection must correct all violations and request a re-score inspection within 30 days in order to avoid closure. The County may immediately close an establishment receiving a score of 0 to 69 points until it can achieve a score of at least 80. In addition, any establishment that is determined to pose an imminent health hazard would be subject to immediate closure, regardless of the inspection score.

The Loma Linda Chamber of Commerce has been informed of the proposed action and has been notified of the proposed public hearing date.

ANALYSIS

The County currently inspects all restaurants in the City of Loma Linda. However, the County currently posts grades only for those establishments that are voluntarily choosing to do so. Adoption of the proposed Ordinance would not require any new inspections, but would make participation in the posted grade program mandatory for all food establishments in the City.

ENVIRONMENTAL

Not applicable.

FINANCIAL IMPACT

The county Division of Environmental Health Services performs all inspections at no cost to the City. The cost of the initial inspection is included in the establishment's annual permit fee; however, re-score inspections will cost establishments \$52 per hour.

Attachment: Council Bill #O-2005-07
County Ordinance 3930

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA ADDING CHAPTER 8.24 TO TITLE 8 OF THE LOMA LINDA MUNICIPAL CODE TO ADOPT BY REFERENCE SAN BERNARDINO COUNTY ORDINANCE NO. 3930 ADDING CHAPTER 14 TO DIVISION 3 OF TITLE 3 AND ADDING SUBSECTION 16.0213B(b)(17) TO CHAPTER 2 OF DIVISION 6 OF TITLE 1, ALL OF THE SAN BERNARDINO COUNTY CODE, RELATING TO INSPECTION GRADING OF FOOD ESTABLISHMENTS

THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES HEREBY ORDAIN

AS FOLLOWS:

Section 1. The Loma Linda Municipal Code is hereby amended by adding Chapter 8.24 to Title 8, as follows:

Section 8.24.010 Adoption of San Bernardino County Inspection Grading of Food Establishments

Notwithstanding any other provision of this Code, Ordinance No. 3930 of the County of San Bernardino, State of California, adding Chapter 14 to Division 3 of Title 3 and adding Subsection 16.0213B(b)(17) to Chapter 2 of Division 6 of Title 1, all of the San Bernardino County Code, relating to inspection grading of food establishments, is hereby adopted by reference.

Section 8.24.020 Penalties.

It is unlawful for any person, firm, partnership or corporation to violate any provision or to fail to comply with any of the requirements of this Ordinance or the provisions of the Ordinance adopted by reference herein.

In accordance with Section 33.1406(c) of the County Code, the Letter Grade Card shall not be defaced, marred, camouflaged, hidden, or removed. It shall be unlawful to operate a food establishment unless the Letter Grade is posted. Removal of the Letter Grade Card is a violation of this Chapter and may result in the suspension or revocation of the public health permit and shall be punishable as specified in Section 33.0112 of this Code. In addition, violations of this Chapter are punishable as an infraction in accordance with the penalties set forth in Chapter 1.12 of Title 1 of the Loma Linda Municipal Code.

Section II. Compliance Requirements. In accordance with Section 5022.6 of the Government Code, at least one copy of the County Code provision adopted by this Ordinance shall be filed in the Office of the City Clerk of the City of Loma Linda at least 15 days preceding the City's hearing concerning the adoption of this Ordinance and shall be available for public inspection while the Ordinance is in force. A copy of the portions of the San Bernardino County Code, adopted by reference in this Ordinance, is attached hereto as Exhibit "A".

Section III. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be

Ordinance No.
Page 2

unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

Section IV. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after passage.

Section V. Posting. Prior to the expiration of fifteen (15) days from its passage, the City Clerk shall cause this Ordinance to be posted pursuant to law in three (3) public places designated for such purpose by the City Council.

This Ordinance was introduced at the regular meeting of the City Council of the City of Loma Linda, California, held on the ____ day of _____ and was adopted on the ____ day of _____ by the following vote to wit:

Ayes: _____

Noes: _____

Abstain: _____

Absent: _____

Mayor

Attest:

Pamela Byrnes-O'Camb, City Clerk

ORDINANCE NO. 3930

AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ADDING CHAPTER 14 TO DIVISION 3 OF TITLE 3 AND ADDING SUBSECTION 16.0213B(b)(17) TO CHAPTER 2 OF DIVISION 6 OF TITLE 1, ALL OF THE SAN BERNARDINO COUNTY CODE, RELATING TO INSPECTION GRADING OF FOOD ESTABLISHMENTS.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Chapter 14 is added to Division 3 of Title 3 of the San Bernardino County Code, to read:

CHAPTER 14

INSPECTION GRADING OF FOOD ESTABLISHMENTS

Sections:

- | | |
|---------|--|
| 33.1401 | Authority. |
| 33.1402 | Food Program Official Inspection Report. |
| 33.1403 | Grading. |
| 33.1404 | Notice of Closure. |
| 33.1405 | Routine Inspection. |
| 33.1406 | Posting Requirements – Penalty for Non-Compliance – Documents Available for Public Review. |
| 33.1407 | Letter Grade Card – Period of Validity. |

33.1401 Authority.

Pursuant to the authority cited in Chapter 1 (Authority and Administration) and Chapter 4 (Food Protection) of Division 3 of Title 3 of the San Bernardino County Code (hereinafter referred to as the "Code"), as well as Health and Safety Code section 113715, food establishments shall be subject to a grading system as provided in this Chapter. All provisions of Chapters 1, 2, and 3 of this Division shall apply to this Chapter except as otherwise provided herein.

1
2 **33.1402 Food Program Official Inspection Report.**

3 Food Program Official Inspection Report ("OIR") means the written report
4 prepared and copy issued to a food establishment by the "Director" of the Division of
5 Environmental Health Services, Department of Public Health, as defined in subsection
6 33.0115(c), or his designee, ("health official") after conducting a Routine Inspection of
7 a food establishment to determine compliance with all applicable federal, state, and
8 local laws and regulations relating to the protection of public health. For purposes of
9 this Chapter only, "food establishment" [as defined in subsection 33.042(c)] shall
10 mean only a retail food establishment at a permanent location.
11

12 **33.1403 Grading.**

13 (a) "Grade" means the letter grade issued by the health official at the
14 conclusion of the Routine Inspection of a food establishment. The grade shall be
15 based upon the scoring method set forth in this section resulting from the OIR and
16 shall reflect the food establishment's degree of compliance with all applicable federal,
17 state, and local laws and regulations relating to the protection of public health.

18 (b) "Letter Grade Card" means a card that shall be posted by the health
19 official at a food establishment upon completion of a Routine Inspection that indicates
20 the letter grade of the food establishment as determined by the health official using
21 the scoring method set forth in this section and includes an Inspection Summary
22 Report, as shown by Figures 1 through 3. An Inspection Summary Report is a
23 summary of the OIR as defined in section 33.1402.

24 ///

25 ///

26 ///

27 ///

28 ///

Inspection Summary Report

For: _____
Address: _____



GRADE

A

BLUE

- ☐ NO CORRECTIVE ACTION REQUIRED
☐ CORRECTIVE ACTION REQUIRED IN THE FOLLOWING AREAS:

- | | |
|---|--|
| <input type="checkbox"/> Food Handling | <input type="checkbox"/> Equipment Sanitation |
| <input type="checkbox"/> Food Temperature | <input type="checkbox"/> Equipment Maintenance |
| <input type="checkbox"/> Food Storage | <input type="checkbox"/> Facility Sanitation |
| <input type="checkbox"/> Food Source & Labeling | <input type="checkbox"/> Facility Maintenance |
| <input type="checkbox"/> Water Supply & Temperature | <input type="checkbox"/> Restrooms |
| <input type="checkbox"/> Utensil Washing & Sanitizing | <input type="checkbox"/> Pest Control |
| <input type="checkbox"/> Employee Practices | <input type="checkbox"/> Waste Management |

Comments: _____

A COMPLETE INSPECTION REPORT CAN BE VIEWED AT THIS FACILITY, UPON REQUEST, AND IS AVAILABLE AT THE HEALTH DEPARTMENT

TAMPERING OR REMOVAL OF THIS REPORT IS A VIOLATION OF S.B.C.C. § 33.1406(c)

San Bernardino County Department of Public Health, Division of Environmental Health Services
316 North Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92411
(909) 387-1111

FIGURE 1

N° 99299

FIGURE 1

Inspection Summary Report

For: _____
Address: _____



GRADE

B
GREEN

☐ NO CORRECTIVE ACTION REQUIRED

☐ CORRECTIVE ACTION REQUIRED IN THE FOLLOWING AREAS:

- | | |
|---|--|
| <input type="checkbox"/> Food Handling | <input type="checkbox"/> Equipment Sanitation |
| <input type="checkbox"/> Food Temperature | <input type="checkbox"/> Equipment Maintenance |
| <input type="checkbox"/> Food Storage | <input type="checkbox"/> Facility Sanitation |
| <input type="checkbox"/> Food Source & Labeling | <input type="checkbox"/> Facility Maintenance |
| <input type="checkbox"/> Water Supply & Temperature | <input type="checkbox"/> Restrooms |
| <input type="checkbox"/> Utensil Washing & Sanitizing | <input type="checkbox"/> Pest Control |
| <input type="checkbox"/> Employee Practices | <input type="checkbox"/> Waste Management |

Comments: _____

A COMPLETE INSPECTION REPORT CAN BE VIEWED AT THIS FACILITY, UPON REQUEST, AND IS AVAILABLE AT THE HEALTH DEPARTMENT

TAMPERING OR REMOVAL OF THIS REPORT IS A VIOLATION OF S.B.C.C. § 33.1406(c)

San Bernardino County Department of Public Health, Division of Environmental Health Services
355 North Arrowhead Avenue, 2nd Floor
San Bernardino, CA 92415
(909) 387-3111

FIGURE 2


No 99200

FIGURE 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Inspection Summary Report

For: _____
Address: _____



GRADE

C

RED

☐ NO CORRECTIVE ACTION REQUIRED
☐ CORRECTIVE ACTION REQUIRED IN THE FOLLOWING AREA(S):

<input type="checkbox"/> Food Handling	<input type="checkbox"/> Equipment Sanitation
<input type="checkbox"/> Food Temperature	<input type="checkbox"/> Equipment Maintenance
<input type="checkbox"/> Food Storage	<input type="checkbox"/> Facility Sanitation
<input type="checkbox"/> Food Source & Labeling	<input type="checkbox"/> Facility Maintenance
<input type="checkbox"/> Water Supply & Temperature	<input type="checkbox"/> Restrooms
<input type="checkbox"/> Utensil Washing & Sanitizing	<input type="checkbox"/> Pest Control
<input type="checkbox"/> Employee Practices	<input type="checkbox"/> Waste Management

Comments: _____

A COMPLETE INSPECTION REPORT CAN BE VIEWED AT THIS FACILITY, UPON REQUEST, AND IS AVAILABLE AT THE HEALTH DEPARTMENT

TAMPERING OR REMOVAL OF THIS REPORT IS A VIOLATION OF S.B.C.C. § 33.1406(c)

San Bernardino County Department of Public Health, Division of Environmental Health Services
 385 North Arrowhead Avenue, 2nd Floor
 San Bernardino, CA 92415
 (909) 387-1111

FIGURE 3
N-99999

FIGURE 3

(c) Any food establishment that fails to attain at least a "B" grade, as defined herein, shall be issued written notice, through an OIR, by the health official. The food establishment must correct the deficiencies listed in the OIR and must file a written request for a re-score inspection with the health official within 30 days of the OIR. A re-score inspection shall be conducted by the health official and be subject to a re-score inspection fee as provided in the Code, Schedule of Fees. The health official will complete the re-score inspection within ten (10) County business days of food establishment's filing of a written request for a re-score inspection. A food establishment failing to comply with the OIR, or failing to attain at least a "B" grade on

1 the re-score inspection, may be immediately closed by the health official and remain
2 closed until at least a "B" grade is achieved on a re-score inspection. Nothing in this
3 provision shall prohibit the health official from immediately closing any food
4 establishment if, at his discretion, immediate closure is necessary to protect the public
5 health.

6 (d) The letter grade shall be based upon the final numerical percentage
7 score set forth in the OIR as follows:

8 (1) A grade of "A" shall indicate a final score of ninety percent (90%)
9 or higher, as determined by the health official;

10 (2) A grade of "B" shall indicated a final score of eighty-nine percent
11 (89%) but not less than eighty percent (80%), as determined by the health official;

12 (3) A grade of "C" shall indicate a final score of seventy-nine percent
13 (79%) but not less than seventy percent (70%), as determined by the health official.
14

15 **33.1404 Notice of Closure.**

16 "Notice of Closure" means a public notice that shall be posted by the health
17 official at a food establishment upon suspension or revocation of the food
18 establishment's public health permit and that results in the closure of the food
19 establishment and the discontinuance of all operations of the food establishment, by
20 order of the health official, because of violations of applicable federal, state, and local
21 laws and regulations relating to the protection of public health. The Notice of Closure
22 shall remain posted until removed by the health official. Removal of the Notice of
23 Closure by any person other than the health official or the refusal of a food
24 establishment to close upon issuance of the written notice of suspension of the public
25 health permit is a violation of this Chapter and may result in the revocation of the food
26 establishment's public health permit and shall be punishable as specified in section
27 33.0112 of this Code.
28

1 **33.1405 Routine Inspection.**

2 "Routine Inspection" means an unannounced inspection of any food
3 establishment to determine compliance with all applicable federal, state, and local
4 laws and regulations relating to the protection of public health. A Routine Inspection
5 shall not mean an inspection conducted by the health official to determine compliance
6 with a previously issued OIR or any interim inspection conducted to determine
7 compliance with specific regulations or legal requirements.
8

9 **33.1406 Posting Requirements – Penalty for Non-Compliance – Documents**
10 **Available for Public Review.**

11 (a) Upon completion of the Routine Inspection, the health official shall post
12 at every food establishment the Letter Grade Card, so as to be clearly visible to the
13 general public and to patrons entering the food establishment. "Clearly visible to the
14 general public and to patrons" shall mean:

15 (1) Posted in the front window of the food establishment within five
16 (5) feet of the front door;

17 (2) Posted in a display case mounted on the outside front wall of the
18 food establishment within five (5) feet of the front door; or

19 (3) Posted in a location approved by the health official to ensure
20 proper notice to the general public and to patrons.

21 (b) In the event that a food establishment is operated in the same building
22 or space as a separately licensed or permitted business, or in the event that a food
23 establishment shares a common patron entrance with a separately licensed or
24 permitted business, or in the event of both, the health official shall post the Letter
25 Grade Card, in the initial patron contact area, or in a location approved by the health
26 official.

27 (c) The Letter Grade Card shall not be defaced, marred, camouflaged,
28 hidden or removed. It shall be unlawful to operate a food establishment unless the

1 Letter Grade Card is posted. Removal of the Letter Grade Card is a violation of this
2 Chapter and may result in the suspension or revocation of the public health permit
3 and shall be punishable as specified in section 33.0112 of this Code.

4 (d) The OIR upon which the Letter Grade Card is based shall be maintained
5 at the food establishment and shall be available to the general public and to patrons
6 for review upon request. The food establishment shall keep the OIR until such time
7 as the health official completes the next Routine Inspection of the food establishment
8 and issues a new OIR.

9
10 **33.1407 Letter Grade Card – Period of Validity.**

11 A Letter Grade Card shall remain valid until the health official completes the
12 next Routine Inspection of the food establishment. A re-score inspection is a
13 complete Routine Inspection that may be required of (as provided in subsection
14 33.1403(c)), or requested by, the food establishment.

15 (a) A re-score inspection shall be conducted by the health official following
16 the filing of a re-score inspection request form. In accordance with the Code,
17 Schedule of Fees, the re-score inspection fee must be paid by the food establishment
18 upon demand by the health official.

19 (b) At the conclusion of the re-score inspection of the food establishment
20 the Letter Grade Card shall be issued based upon the scoring method set forth in this
21 Chapter resulting from the OIR.

22 (c) A requested re-score inspection is separate and independent of all re-
23 inspections of critical violations as determined by the health official.

24 ///

25 ///

26 ///

27 ///

28 ///

1 SECTION 2. Subsection 16.0213B(b)(17) is added to Chapter 2 of Division 6 of
2 Title 1 of the San Bernardino County Code, to read:

3
4 **16.0213B Health Services - Environmental.**

5 (b) Food/Recreational Health Program Fee:

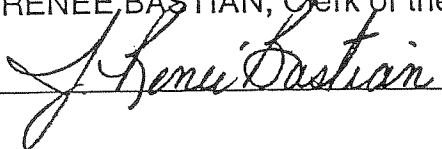
6
7 (17) Re-score Inspection\$52.00/hr.
8

9 SECTION 3. This ordinance shall become effective thirty (30) days from the
10 date of adoption and its provisions shall become operative on October 1, 2004.

11 
12 DENNIS HANSBERGER, Chairman
13 Board of Supervisors
14

15 SIGNED AND CERTIFIED THAT A COPY
16 OF THIS DOCUMENT HAS BEEN DELIVERED
17 TO THE CHAIRMAN OF THE BOARD

18 J. RENEE BASTIAN, Clerk of the Board of Supervisors

19 
20

21 STATE OF CALIFORNIA)
22)ss.
23 COUNTY OF SAN BERNARDINO)

24 I, J. RENEE BASTIAN, Clerk of the Board of Supervisors of the County of San
25 Bernardino, State of California, hereby certify that at a regular meeting of the Board of
26 Supervisors of said County and State, held on the 22nd day of June,
2004, at which meeting were present Supervisors: _____
Postmus, Biane, Aguiar, Young, Hansberger,

27 and the Clerk, the foregoing ordinance was passed and adopted by the following vote,
28 to wit:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

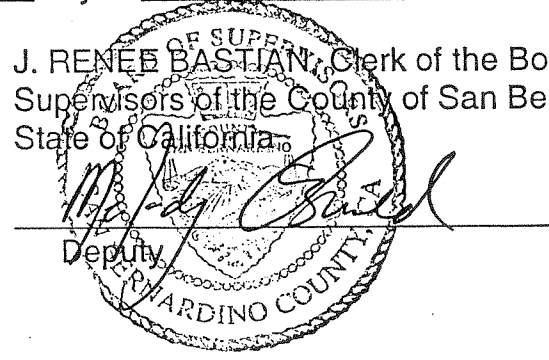
AYES: SUPERVISORS: Biane, Aguiar, Young, Hansberger

NOES: SUPERVISORS: Postmus

ABSENT: SUPERVISORS: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this 22nd day of June, 2004.

J. RENEE BASTIAN, Clerk of the Board of Supervisors of the County of San Bernardino, State of California



Approved as to Form
Ronald D. Reitz, County Counsel

By: Ronald D. Reitz
Deputy

Date: 6/14/04

ENVIRONMENTAL
HEALTH SERVICES
04 JUL 23 PM 3:38